

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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<b>WILLIAM E. MARTIN,</b>  <b>Plaintiff,</b>  <b>v.</b>  <b>SSM PARTNERS,</b>  <b>Defendant.</b>	) ) ) ) ) ) ) ) ) )	<b>Case No. 2:23-cv-02461-JTF-tmp</b>
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**ORDER ADOPTING REPORT AND RECOMMENDATION; DISMISSING CASE  
WITHOUT PREJUDICE**

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On August 1, 2023, Plaintiff William E. Martin filed a *pro se* complaint against defendants SSM Partners Charles West, Hunter Witherington, and Ed Nenon. (ECF No. 1.) Summonses were issued and given to Martin to perfect service that same day. (ECF No. 8.) However, defendants were not served. Chief Magistrate Judge Pham issued a Show Cause Order on November 20, 2023, ordering Martin to show why this case should not be dismissed without prejudice for failure to timely serve the defendants. (ECF No. 9.) On December 6, 2023, Martin’s service deadlines were extended to January 22, 2024. (ECF No. 11, 2.) Martin then filed an Amended Complaint on January 16, 2024, bringing claims against only SSM Partners. (ECF No. 12, 2.)

On January 30, 2024, the Magistrate Judge issued a report and recommendation (“R&R”), recommending that Martin’s suit be dismissed for failure to perfect service. (ECF No. 13.) On February 13, 2024, the R&R was withdrawn, but the Magistrate Judge made clear that SSM Partners could still file a motion to dismiss on the grounds of improper service of process. (ECF No. 17.) SSM Partners did just that the next day. (ECF No. 18.) On March 15, 2024, several days after Martin’s response to the motion to dismiss was due, the Magistrate Judge

ordered Martin to show cause why SSM Partners' motion to dismiss should not be granted for lack of opposition. (ECF No. 19.) On March 22, 2024, Martin filed a one-sentence response requesting that the Court dismiss his complaint due to resource constraints. (ECF No. 20.) The Magistrate Judge construed this response as a motion for voluntary dismissal under Rule 41 of the Federal Rules of Civil Procedure, and entered an R&R on March 25, 2024, recommending that Martin's action be dismissed without prejudice. (ECF No. 21.) Neither party filed any objections to the R&R, and their opportunity to do so has passed. *See* 28 U.S.C. § 636(b)(1); LR 72.1(g)(2) (objections must be filed within fourteen (14) days after being served a copy of the R&R). The Court **ADOPTS** the R&R and **DISMISSES** this action without prejudice pursuant to Federal Rule of Civil Procedure 41.

**IT IS SO ORDERED** this 12th day of April, 2024.

*s/John T. Fowlkes, Jr.*  
JOHN T. FOWLKES, JR.  
UNITED STATES DISTRICT JUDGE